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**AUG 18 2008**

In re Application of :  
Pawel W. Sleboda et al :  
Application No. 10/049,993 : DECISION ON PETITION  
Filed: February 18, 2002 : UNDER 37 CFR 1.182  
Attorney Docket No. LDOS0230PUSA :  
:

This is a decision on the petition under 37 CFR 1.182, filed November 28, 2007.

The petition is **DISMISSED**.

The above-noted abandoned application failed to make a proper claim of priority to the prior-filed application. Petitioner now requests that the abandoned application be amended by inserting a reference to the earlier-filed application.

35 U.S.C. § 120 permits entry of a subsequent amendment to an abandoned application in applications filed prior to November 29, 2000 to include the benefit of an earlier filing date for purposes other than prosecution. *See Sampson v. Commissioner of Patents and Trademarks*, 195 USPQ 136 (DC DC 1976).

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference. In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.182.

Further correspondence with respect to this matter should be addressed as follows:

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Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.



Karen Creasy  
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